

## DEPARTMENT OF THE ARMY PERMIT

Permittee Cape Wind Associates, LLC, 75 Arlington, Street, Suite 704, Boston, MA 02116

Permit No. NAE-2004-388

Issuing Office New England District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

### Project Description:

The permittee is authorized to construct and maintain an offshore wind energy generating facility consisting of 130 wind turbine generators (WTGs) with a maximum blade height of 440 feet arranged in a grid pattern on Horseshoe Shoal in Nantucket Sound between Cape Cod, Martha's Vineyard and Nantucket. Scour mats or rock armouring will be installed at the base of the turbine monopole (14.75-19.75 foot diameter) foundations, if needed. A 33 kilovolt solid dielectric submarine transmission cable system will be installed by jetplow to transmit electricity from the WTGs to the electric service platform installed within the turbine array. The electric service platform will be a pile supported structure with maximum dimensions of 100 feet by 200 feet. Two 115 kilovolt, alternating current, submarine cable circuits will be installed by jetplow to transmit the electricity to the grid, making landfall at New Hampshire Avenue, Yarmouth, MA.

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### Project Location:

Nantucket Sound and Lewis Bay between Hyannis/Yarmouth, Martha's Vineyard and Nantucket off the coast of Massachusetts.

### Permit Conditions:

#### General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2020. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:**

1. The permittee shall ensure that a copy of this permit are at the work site (and the project office) authorized by this permit whenever work is being performed, and that all personnel with operation control of the site ensure that all appropriate personnel performing work are fully aware of its terms and conditions. The entire permit shall be made a part of any and all contracts and sub-contracts for work that affects areas of Corps jurisdiction at the site of the work authorized by this permit. This shall be achieved by including the entire permit in the specifications for work. The term "entire permit" means this permit (including its drawings, plans, appendices and other attachments) and also includes permit modifications.

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**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

☒ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).

☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

James S. Gordon      5 January 2011  
(PERMITTEE) James S. Gordon, Manager  
EMI Cape, LLC  
Manager and Member of Cape Wind Associates, LLC  
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Philip T. Feir      5 January 2011  
(DISTRICT ENGINEER)  
Philip T. Feir  
Colonel, Corps of Engineers  
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

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(TRANSFeree) (DATE)

(description continued from page 1)

The landfall transition of the 115 kilovolt submarine transmission lines from water to land at Yarmouth will be through the use of horizontal directional drilling (HDD) to avoid disturbance of the shoreline. A temporary cofferdam will be installed at the seaward end of the HDD borehole. The steel sheetpile cofferdam will enclose an area of approximately 2925 square feet with dimensions of 65 feet wide and 45 feet long. It will be open at one end to allow the installation of the conduits. A temporary turbidity curtain may be used to confine sediments within the work area, if needed. Approximately 840 cubic yards of sediment will be temporarily removed, stored on a barge, and backfilled after the installation is completed. Clean sand will be used to supplement the backfill material as needed to restore the seafloor to preconstruction grade.

The work is described on the enclosed plans entitled "Purpose: Wind Energy Generation and Submarine/Overland Transmission Cable Project," on 18 sheets, and dated "February 15, 2007."

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If the permit is issued after the construction specifications, but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. If the permit is issued after receipt of bids or quotes, the entire permit shall be included in the contract or sub-contract. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

2. The permittee shall complete and return the enclosed Compliance Certification Form within one month following the completion of the authorized work.

3. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

4. Except where stated otherwise, reports, drawings, correspondence and any other submittals required by this permit shall be marked with the words "Permit No. NAE-2004-388" and shall be addressed to "Policy, Analysis and Technical Support Branch, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751." Documents which are not marked and addressed in this manner may not reach their intended destination and do not comply with the requirements of this permit.

5. A copy of this permit will be provided, prior to the start of any authorized work, to the Director, Defense Mapping Agency, Hydrographic Center, Washington, DC 20390 Attention, Code NS12, and to the National Ocean Service, Office of Coast Survey, N/CS261, 1315 East West Highway, Silver Spring, Maryland 20910-3282.

6. An eelgrass monitoring and mitigation plan will be submitted to, and approved in writing by, the Corps of Engineers prior to the start of the installation of submarine cable between the electric service platform and Yarmouth. This plan will include pre- and post-construction monitoring to determine if any eelgrass has been lost due to the cable installation. A planting plan and schedule to compensate for any disturbed eelgrass will be included.

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7. The permittee shall survey and locate, horizontally and vertically, the National Grid cable authorized by permit number NAE-2004-1533 at all locations where the permittee's installation activities may occur within 500 feet of the National Grid cable. This data will be made available to the Corps and National Grid. Final design plans and installation procedures for work within 150 feet of the National Grid cable shall meet the technical requirements of National Grid and be submitted to the Corps and National Grid for written approval prior to the start of work and will be submitted at least 30 days prior to the scheduled work.

8. The permittee shall submit as-built, full-sized drawings of the authorized work to the Corps of Engineers. The as-built drawing shall include at least one plan view showing horizontal alignment and a profile view showing the vertical alignment of all cables. Plans will include a bar (graphic) scale, the dates of the survey and drawings, and horizontal state plane coordinates and vertical elevation. Show the cable's horizontal state plane coordinates in U.S. survey feet based on NAD 83. Show the vertical elevation as MLLW with a reference to NAVD 88 and document how this information was derived using the latest National Tidal Datum Epoch for that area, typically 1983-2001. Plans will be stamped by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts. Any changes in the location or type of structures requires notification to the Corps and may require a new survey.

9. The permittee shall submit the as-built drawings to the Corps and the National Oceanic and Atmospheric Administration (NOAA) within 60 days of construction completion. The Corps may note the location on future survey drawings and NOAA may use the information for charting purposes. The NOAA address is: "Nautical Data Branch, N/CS26, Station 7349, 1315 East-West Highway, Silver Spring, MD 20910-3282."

10. The permittee will ensure all cables, including the portions within state waters, remain buried in the same manner as required for the inner array cable by the Lease of the Bureau of Offshore Energy Management, Regulation and Enforcement.